

Re: Cease planned construction of parking lot in the southwest quadrant of Parcel 2.

Dolen's follow-up response: As I acknowledged in my complaint, it is true that NRG indicated in the 2010 Amended Decision that an area somewhere within Parcel 2 would be used as a parking lot. My complaint did not argue that fact. Rather, to clarify and reiterate so there is no confusion, what my complaint states is that NRG clearly violated Title 20 of the California Code of Regulations by not complying with the requirements set forth in the "Information Requirements for an Application," Appendix B (a)(1)(D), which requires the following:

(D) A full-page color photographic reproduction depicting the visual appearance of the site prior to construction, and a full-page color simulation or artist's rendering of the site **and all project components at the site, after construction.**

The parking lot was a project component at the site, yet it was not visually depicted in the photographic reproductions or simulations. Regardless of which KOPs you reference, you will find that it does not appear in a single one of their simulations. This is a fact which cannot be disputed.

Therefore, in order for NRG to construct this parking lot and remain compliant with Title 20, it would mean that the parking lot cannot be visible from any of the KOPs. If this project component were constructed in a manner which *is* visible, that would violate the aforementioned (a)(1)(D) since it was not visually depicted in any of the photographic reproductions filed with the State of California, which the public relied upon.

Within the Staff's response to Figures I and J of the complaint, it was said:

"Per these plans, the height of the earthen berm will be higher than what is depicted in these figures and will further screen any vehicles from view. Staff believes the increased height of the re-engineered berm will change the height of the proposed trees and shrubs potentially shielding more of the facility and overflow parking area from view."

Shielding "more" of the parking area from view is still in violation of Title 20. In order for NRG to be compliant, 100% of the parking lot would need to be shielded from view, because that was what they depicted in their photographic reproductions (since no parking lot was visible whatsoever).

In conclusion, with these clarifications, I respectfully urge the Staff to please re-evaluate this.

Re: Require the Project Owner provide a new simulation.

Dolen's follow-up response: KOP 2 represents a viewpoint which is only seen if you are standing at a specific location on the beach near the water. It is completely irrelevant to the residents, whom are located on a significantly higher elevation. Just the elevation of the Strand sidewalk alone is approximately 17 feet higher than the KOP 2 elevation. To the east of the Strand are the houses, which sit on some of the most dramatically sloping streets in the South Bay. The view of the power plant from an elevation of 50 or 70 feet is quite different than standing near the water and being literally a couple feet above sea level (because the lower you are, the higher the landscaping will be in proportion to the power plant).

The KOPs along 45th street are equally useless to all the other residents who don't live on that specific street. First of all, the berm runs along 45th street. Any KOP with an elevated berm directly in front of it will largely shield whatever is in back. It's only when you are further back from the berm that you begin to see what is actually behind it (such as 44th street and behind). Secondly, the 45th street KOPs are looking east – not northeast – which is where the power plant is. For that reason, it is not possible to extrapolate the simulated views and apply them to the rest of the neighborhood, let alone the Strand, which is likely the most used pedestrian walkway in the South Bay. And given that Title 20 requires *“the locations of the key observation points to represent the most critical viewing locations”* it seems illogical that the Strand is not represented.

Lastly, none of the KOPs reflect any changes which were made pursuant to the Murphy-Perkins complaint. The berm has been engineered, so why hasn't NRG provided new KOPs to reflect such changes? The public has a right to know what the new proposed changes will look like. The staff's response even acknowledged the KOPs are not accurate.

“Staff agrees that the top simulated photo of Complaint Figure J is not from the 2005 AFC. However, staff would like to point out that the current re-engineering of the berm and the increased height at the southwestern corner of the project in the view of KOP 2 are not accurately depicted in either simulation.”

Also as acknowledged above, Figure J (KOP 2) was not from the 2005 AFC. This is despite the fact that NRG falsely claimed it was in their later filing. Why is the Energy Commission not holding NRG accountable for repeated discrepancies when it comes to their KOPs? NRG has an obligation to provide KOPs which are up to date and reflect the most critical viewing locations.